

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WILLIAM OTERO,

Case No. 16-cv-994-pp

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER APPOINTING COUNSEL

On July 28, 2016, the petitioner filed with this court a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. §2255. Dkt. No. 1. This is the petitioner's second §2255 motion since his conviction; attached to the motion were the government's request that the Seventh Circuit not give the petitioner permission to file a second or successive petition (Dkt. No. 1-2); a portion of the petitioner's presentence investigation report (Dkt. No. 1-3); and the Seventh Circuit's order allowing the petitioner, over the government's objection, to file the successive petition (Dkt. No. 1-1).

On August 21, 2015, Chief Judge William C. Griesbach issued an administrative order, stating, "[T]he appointment of counsel is hereby ordered for any defendant who was previously found eligible for appointed counsel or who is now indigent, so that counsel may explore and, as appropriate, pursue claims for relief under 18 U.S.C. § 2255 or 28 U.S.C. §2241, in light of *Johnson*

v. United States, 135 S. Ct. 2551 (2015) and *Price v. United States*, ___ F.3d ___, 2015 WL 4621024 (7th Cir. Aug. 4, 2015).”

In this case, the petitioner argues that his sentence was based on an unconstitutionally vague provision of the U.S. Sentencing Guidelines, and cites to Johnson v. United States and Welch v. United States, ___ U.S. ___, 136 S. Ct. 1257 (April 18, 2016). The petitioner also had appointed counsel at the time of his original prosecution. See United States v. Otero, Case No. 04-cr-281-1-RTR (E.D. Wis.).

The court **ORDERS** that Federal Defender Services of Wisconsin shall provide counsel to review the petitioner’s file, the petition itself, the government’s response in the Seventh Circuit, and the Seventh Circuit’s decision, and either to file the appropriate supplement to the petitioner’s pleadings or notify the court that counsel will not be filing anything further on the petitioner’s behalf (if counsel’s review of the file and the case law leads him or her to believe that there is no basis for a further pleading). The court further **ORDERS** that the United States Probation Office for the Eastern District of Wisconsin and the United States District Court Clerk’s Office for the Eastern District of Wisconsin make available to appointed counsel judgments, statements of reasons, and presentence reports, as well as any sealed filings, as appointed counsel finds necessary to fulfill his or her role in this regard. The court **ORDERS** that appointed counsel shall, no later than **October 7, 2016**, file either a supplemental pleading, a request for an extension of time, or a

notice that counsel will not be filing any pleadings on the petitioner's behalf.

Dated in Milwaukee, Wisconsin this 2nd day of August, 2016.

BY THE COURT:

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line.

HON. PAMELA PEPPER
United States District Judge